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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/114,352	07/13/1998	TOMOKO TERAKADO	SONY-P8770	9117

22850 7590 07/13/2005

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EXAMINER	
KOENIG, ANDREW Y	
ART UNIT	**PAPER NUMBER**
2611	

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/114,352	TERAKADO ET AL.	
	Examiner	Art Unit	
	Andrew Y. Koenig	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 April 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4 and 6-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4 and 6-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

The applicant's argument with respect to the rejection under 35 USC § 112 is persuasive, as the applicant has indicated support for the limitation.

However, the applicant argues that Klosterman '073 does not disclose that NBC is a broadcasting station that adds or alters EPG data, as defined in the claims. The examiner disagrees; Klosterman teaches receiving information at the local service provider (140) from a distribution center (110) via line (117) (col. 4, ll. 24-62), wherein the information is data from broadcasting station. Further, Klosterman '073 teaches promoting a program on a channel (in this case NBC). While promoting the program, Klosterman shows a preference to the provider (NBC) by enlarging the display of the provider name (fig. 4(a), col. 8, ll. 10-18). It is noted that NBC is sent from the transmitting end. Apparently, the claimed "transmitting end that initiates the image signal" is subject to the broadest reasonable interpretation of a station sending the image signal to a distribution facility (e.g. headend) for retransmission, thus the receiver receives the image signal transmitted from a transmitting end that initiates the image signal by means of a different distributor.

The applicant further argues that for Klosterman to teach this feature, preference would have to be given to the program guide provider, not NBC in that one would suspect that NBC is not a program guide provider. The examiner disagrees; the fact that the service provider and the distribution center provide the EPG data is irrelevant in

that the system in that NBC and the other channels are still distributed from the broadcast channel, as discussed above.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 8, 9, 10, 14, 17, 18, 21, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 8-10, and 15 appear to be apparatus claims, but performing a method, consequently, the claims are ambiguously constructed and indeterminate in scope because they purport to claim both an apparatus and method of using the apparatus in a single claim, see Ex parte Lyell (17 USPQ2d 1548).

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9, 10, 13, 14, 17, 18, 21, and 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 9, 10, 13, 14, 17, 18, 21, and 22 recite limitations to functional descriptive material.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 4, 6-10, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,579,055 to Hamilton et al. and U.S. Patent 5,940,073 to Klosterman et al. (hereinafter Klosterman '073) in view of U.S. Patent 5,550,576 to Klosterman and U.S. Patent 6,147,714 to Terasawa et al.

Regarding claims 1, 8, 9, 10, and 15-18, Hamilton teaches transmitting EPG data in the vertical blanking interval (VBI) of the transmitted signal, which is received by the set top tuner (col. 11, ll. 13-20). Hamilton teaches receiving the audio and video (fig. 7, lab. 700), and displaying the image signal to the display (col. 15, ll. 54-56). Hamilton teaches extracting the EPG data with the television tuner (col. 2, ll. 42-54). Hamilton teaches updating the EPG data every 30 minutes or for a program change (col. 5, ll. 55-60); updating the EPG reads on altering the display format. Hamilton teaches receiving and accepting a template from the EPG supplier (col. 5, ll. 49-52). Clearly, Hamilton teaches outputting the altered EPG (received every 30 minutes or program change) to the display in order to display the updated information to the user.

Hamilton teaches implementing the system in other environments such as satellite systems, over-the-air broadcasts, subscription television services, etc. But,

Hamilton is silent on a broadcaster adding EPG data and generating an image signal. Terasawa teaches a system where the broadcaster adds EPG data and simultaneously encodes image signals (see fig. 1), which reads on generating image signals. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hamilton by using a broadcaster that adds EPG data while simultaneously generating image signals as taught by Terasawa in order to simultaneously send information along with the programming and thereby efficiently using the available bandwidth.

Hamilton is silent on the each broadcasting station having altering in accordance with predetermined information representing a first broadcasting station to show a preference to a provider tag. Further, Hamilton is silent on displaying the preference to the provider within a row of the display that includes at least the provider tag and program name. Klosterman '073 teaches promoting a program on a channel (in this case NBC). While promoting the program, Klosterman shows a preference to the provider (NBC) by enlarging the display of the provider name (fig. 4(a), col. 8, ll. 10-18). Further, Klosterman '073 shows this preference within a row of the display including at least the provider tag (NBC) and program name.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hamilton by using provider tags and showing a preference to a provider tag of a first broadcasting station as taught by Klosterman '073 in order to promote the cable system.

Hamilton teaches updating the display at 30-minute intervals or for program changes (col. 5, ll. 55-60), but is silent on changing the order of data constituting the EPG in accordance to the template. Klosterman teaches various combinations of ordering programs within an EPG; furthermore, channels in an order associated with their particular source (col. 6, ll. 34-39). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hamilton by altering the order of data in the EPG as taught by Klosterman in order to encourage viewers to select programs from various networks.

Claims 9 and 10 add the limitation of a computer program used in the receiving apparatus. Clearly, Hamilton inherently must use a computer program in order to receive, store, and display the EPG data.

Regarding claim 4, Hamilton teaches storing the template into memory (col. 5, ll. 49-52), which reads on recording information representing a predetermined broadcasting station.

Regarding claim 6, Hamilton is silent on altering the data so that part of the data is emphasized according to predetermined information. Davis teaches displaying a promotional video and text, which reads on data emphasized in accordance with predetermined information (fig. 7a). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hamilton by displaying emphasized information as taught by Davis in order to encourage program viewership.

Regarding claim 7, Hamilton teaches sending the current time and date from the ISP system clock, which reads on additional information added according to predetermined information.

6. Claims 11-14 and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,559,548 to Davis et al. in view of U.S. Patent 6,147,714 to Terasawa et al. and U.S. Patent 5,940,073 to Klosterman et al. (Klosterman '073).

Regarding claims 11-14 and 19-22, Davis teaches a transmitter and a receiver (as shown in figure 1). Davis teaches editing promotional data stored in the promotional database (col. 6, ll. 3-10), which reads on generating an image signal. Davis teaches a data processor (fig. 1, lab. 110) that generates the EPG (col. 6, ll. 46-53). Furthermore, Davis teaches displaying the product logo (see figure 7a) of TV Guide (as shown in 7b and 7c), which reads on information representing the broadcast station. Davis teaches assembling all the information (i.e. generated EPG, broadcaster information, and promotional information) by the data processor and transmitting the combined signal (col. 6, ll. 46-58).

Davis is silent on a broadcaster adding EPG data and generating an image signal. Terasawa teaches a system where the broadcaster adds EPG data and simultaneously encodes image signals (see fig. 1), which reads on generating image signals. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Davis by using a broadcaster that adds EPG

data while simultaneously generating image signals as taught by Terasawa in order to simultaneously send information along with the programming and thereby efficiently using the available bandwidth.

Davis teaches displaying a preference to the first broadcasting station to the product provider, cable system, or multi-system operator (MSO) logo, or both, see "TV Guide" as shown in figure 5a, col. 8, ll. 59-64. Accordingly, Davis teaches that each cable system can show preference to their network with the presence of their logo. Clearly, one recognizes that the system Davis has a plurality of broadcasting stations and enables each of those stations to provide the user with logo identifying their respective cable system, which reads on a first broadcaster (one of a plurality of cable headends (10)) each having a provider tag and representing the first broadcasting station in a display format showing preference to the provider tag of the first broadcasting station over the provider tags of the other stations.

Davis is silent on altering in accordance with predetermined information representing a first broadcasting station to show a preference to a provider tag. Further, Davis is silent on displaying the preference to the provider within a row of the display that includes at least the provider tag and program name. Klosterman '073 teaches promoting a program on a channel (in this case NBC). While promoting the program, Klosterman shows a preference to the provider (NBC) by enlarging the display of the provider name (fig. 4(a), col. 8, ll. 10-18). Further, Klosterman '073 shows this preference within a row of the display including at least the provider tag (NBC) and program name.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Davis by using provider tags and showing a preference to a provider tag of a first broadcasting station as taught by Klosterman '073 in order to promote the cable system.

Further regarding claim 13, claim 13 adds the limitation of transmitting a computer program. Davis teaches transmitting the EPG data (col. 6, ll. 54-58), which clearly reads on a computer program.

Further regarding claim 14, claim 14 adds the limitation of holding a computer program and using the computer program. Davis teaches a data processor (fig. 1, lab. 110), which inherently uses computer program in order to send and compile the EPG data.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (703) 306-0399. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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CHRIS GRANT
PRIMARY EXAMINER